

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 15620
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On April 11, 2001, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable year 1989 in the total amount of \$1,413.

On June 12, 2001, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer requested a telephone conference, which was held on August 14, 2001. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) reviewed the returns of the taxpayer's S-corporation and found that the taxpayer did not file an individual income tax return for the taxable year 1989. The Bureau sent the taxpayer a letter asking about his filing requirement with Idaho. The Bureau did not receive a response from the taxpayer, so it began gathering additional information on the taxpayer.

From the information gathered, the Bureau determined the taxpayer was required to file an Idaho income tax return. The Bureau prepared a return for the taxpayer [Redacted]. The Bureau sent the taxpayer a Notice of Deficiency Determination, which the taxpayer appealed.

The taxpayer stated he disagreed with the Bureau that he was a resident of Idaho and that he was required to report income to Idaho that was earned in Alaska. He stated further that the return in question was timely filed and was outside the statute of limitations for correction or adjustment.

The taxpayer chose to have his position heard through a telephone conference. During the telephone conference the taxpayer provided historical information on his whereabouts and where he earned his income.

In 1981, the taxpayer moved to Alaska and began fishing. By 1983, the taxpayer owned his own fishing operation in Alaska. He also began logging on the [Redacted] during the off-season. Occasionally, the taxpayer would return to Idaho for visits and to acquire investment and other business property. However, he always went back to Alaska to continue fishing and logging.

In 1985, the taxpayer purchased a house in [Redacted], Idaho near [Redacted]. In 1987, the taxpayer applied for and received the homeowner's exemption on the house he purchased in [Redacted]. Sometime prior to 1989, the taxpayer also acquired some commercial property in [Redacted], Idaho.

It is well-established law that a person's domicile gives the state of domicile the right to tax that individual. People of State of New York ex rel. Cohn v. Graves, 300 U.S. 308, 313 (1937); Lawrence v. State Tax Commission of Mississippi, 286 U.S. 276, 279 (1932). It is equally established that everyone has a domicile and that no one can have more than one domicile at a time. Taylor v. Milam, 89 F.Supp. 880, 881 (W.D.Ark. 1950); Ex parte Phillips, 275 Ala. 80, 152 So.2d 144, 146 (1963); Smith v. Smith, 45 Cal.2d 235, 288 P.2d 497, 499 (1955).

The Bureau determined, based upon the available information, the taxpayer was domiciled in Idaho in 1989. However, from the information presented by the taxpayer, the Tax Commission agreed with the taxpayer that he was domiciled in Alaska in 1989. Nevertheless,

this finding does not mean that the taxpayer did not have a requirement to file an Idaho income tax return.

The taxpayer owned commercial property in [Redacted] during 1989. On a subsequent year's return, the taxpayer reported rental income from that property. The taxpayer did not provide any information on the rental income from the commercial property. Therefore, the Tax Commission made an assumption that the property was continuously rented since the taxpayer's acquisition of the property.

The Tax Commission estimated the taxpayer's rental income based upon the information provided on subsequent years' returns. Assuming the Tax Commission's estimate is correct, the taxpayer had Idaho source income in excess of Idaho's filing requirement for 1989. Therefore, the taxpayer was required to file an income tax return for 1989.

The return prepared by the Bureau included all the income earned by the taxpayer as Idaho source income. However, the taxpayer was not a resident of or domiciled in Idaho and the taxpayer had income from sources outside of Idaho. Therefore, the Tax Commission modified the return prepared by the Bureau to include only the estimated income from the taxpayer's commercial property.

The Bureau added interest and penalty to the taxpayer's Idaho tax liability in accordance with Idaho Code sections 63-3045 and 63-3046. The Tax Commission reviewed these additions and found them appropriate.

WHEREFORE, the Notice of Deficiency Determination dated April 11, 2001, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1989	\$633	\$158	\$700	\$1,491

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2002.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

### **CERTIFICATE OF SERVICE**

I hereby certify that I have on this \_\_\_\_ day of \_\_\_\_\_, 2002, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

[REDACTED][REDACTED][REDACTED]

\_\_\_\_\_  
ADMINISTRATIVE ASSISTANT 1